



General Assembly

February Session, 2016

Raised Bill No. 248

LCO No. 1853



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING REVISIONS TO STATUTES AFFECTING TITLE TO REAL PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-428 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) If the [Court of Probate] Probate Court finds that the estate of a
4 deceased person is insolvent and if the real property has been
5 specifically devised or if the court finds that the estate of such person is
6 solvent but that there are no assets of the estate, other than real
7 property specifically devised or forbidden by will to be sold or
8 mortgaged, from which debts, taxes and administration charges
9 against the estate may be paid, the court shall order personal notice of
10 the pendency of the application for a decree authorizing the sale or
11 mortgage of such real property to be given to all devisees of such real
12 property whose existence, names and residences can be ascertained by
13 the court and shall order such other notice as it deems advisable to be
14 given to all such devisees whose existence, names and residences
15 cannot be ascertained by the court.

16 (b) Except as provided in this section, real property of a decedent
17 whose estate is solvent and either specifically devised by will or
18 forbidden by will to be sold or to be mortgaged shall not be so ordered
19 to be sold or mortgaged without the written consent of the specific
20 devisees or other parties interested as distributees of such real
21 property or of the guardians ad litem or guardians or conservators of
22 the estates of those not legally competent so to consent. Neither a
23 Probate Court order nor the consent of specific devisees shall be
24 required when the testator has authorized the fiduciary to sell any real
25 property without court order.

26 Sec. 2. Subsection (d) of section 45a-583 of the general statutes is
27 repealed and the following is substituted in lieu thereof (*Effective*
28 *October 1, 2016*):

29 (d) A disclaimer under this section shall be effective if made in the
30 following manner: (1) A disclaimer of a present interest shall be
31 delivered not later than the date which is nine months after the later of
32 (A) the effective date of the nontestamentary instrument, or (B) if the
33 disclaimer is made by or on behalf of a natural person, the day on
34 which such person attains the age of eighteen years or, if such person
35 does not survive to the age of eighteen years, the day on which such
36 person dies. (2) A disclaimer of a future interest shall be delivered not
37 later than the date which is nine months after the later of (A) the event
38 determining that the taker of the interest is finally ascertained and
39 such interest is indefeasibly vested or (B) if the disclaimer is made by
40 or on behalf of a natural person, the day on which such person attains
41 the age of eighteen years or, if such person does not survive to the age
42 of eighteen years, the day on which such person dies. (3) If the
43 disclaimant, or the person on whose behalf the disclaimer is made,
44 does not have actual knowledge of the existence of the interest, the
45 disclaimer shall be delivered not later than the date which is nine
46 months after the later of (A) the date on which the disclaimant, or the
47 person on whose behalf the disclaimer is made, first has actual
48 knowledge of the existence of the interest or (B) if the disclaimer is

49 made by or on behalf of a natural person, the day on which such
50 person attains the age of eighteen years or, if such person does not
51 survive to the age of eighteen years, the day on which such person
52 dies. (4) The disclaimer shall be delivered to the transferor of the
53 interest, the transferor's legal representative or the holder of the legal
54 title to the property to which such interest relates. (5) If an interest in
55 real property is disclaimed, a copy of such disclaimer shall also be
56 recorded in the office of the town clerk in which the real property is
57 situated. [within such nine-month period, and if a copy of such
58 disclaimer is not so recorded, it shall be ineffective against any person
59 other than the disclaimant, or the person on whose behalf such
60 disclaimer is made, but only as to such real property interest] As to
61 such real property interest, such disclaimer shall not be effective
62 against any person other than the disclaimant, the person on whose
63 behalf such disclaimer is made or any person having actual knowledge
64 of such disclaimer until the time of recording. For the purposes of this
65 section, the effective date of a nontestamentary instrument is the date
66 on which the maker no longer has power to revoke it or to transfer to
67 the maker or another the entire legal and equitable ownership of the
68 interest.

69 Sec. 3. Subsection (b) of section 47-12a of the general statutes is
70 repealed and the following is substituted in lieu thereof (*Effective*
71 *October 1, 2016*):

72 (b) The affidavits provided for in this section may relate to the
73 following matters: Age, sex, birth, death, capacity, relationship, family
74 history, heirship, names, identity of parties, marital status, possession
75 or adverse possession, adverse use, residence, service in the armed
76 forces, conflicts and ambiguities in description of land in recorded
77 instruments, [and] the happening of any condition or event which may
78 terminate an estate or interest and any other state of facts affecting title
79 to real property.

80 Sec. 4. Section 49-9a of the general statutes is repealed and the

81 following is substituted in lieu thereof (*Effective October 1, 2016*):

82 (a) Notwithstanding the provisions of this chapter, a release of
83 mortgage executed by any person other than an individual that is
84 invalid because it is not issued or executed by, or fails to appear in the
85 name of the record holder of the mortgage on one, two, three or four-
86 family residential real property located in this state, including, but not
87 limited to, a residential unit in any common interest community, as
88 defined in section 47-202, shall be as valid as if it had been issued or
89 executed by, or appeared in the name of, the record holder of the
90 mortgage unless an action challenging the validity of the release is
91 commenced and a notice of lis pendens is recorded in the land records
92 of the town where the release is recorded within five years after the
93 release is recorded, provided an affidavit is recorded in the land
94 records of the town where the mortgage was recorded which states the
95 following:

96 (1) The affiant has been and remains the record owner or the
97 personal representative of the record owner of the real property
98 described in the mortgage for at least two years prior to and as of the
99 date of the affidavit;

100 (2) The recording information for the mortgage, any assignment of
101 the mortgage and the release;

102 (3) Since the date of the recording of the release, the affiant has
103 received no demand for payment of all or any portion of the debt
104 secured by the mortgage and has received no notice or communication
105 that would indicate that all or any portion of the mortgage debt
106 remains due and owing; and

107 (4) To the best of the affiant's knowledge and belief, the mortgage
108 debt has been paid in full.

109 (b) The provisions of subsection (a) of this section shall not apply to
110 any release obtained by forgery or fraud.

111 Sec. 5. Section 49-39 of the general statutes is repealed and the
112 following is substituted in lieu thereof (*Effective October 1, 2016*):

113 A mechanic's lien shall not continue in force for a longer period than
114 one year after the lien has been perfected, unless the party claiming the
115 lien commences an action to foreclose it, by complaint, cross-complaint
116 or counterclaim, and records a notice of lis pendens in evidence thereof
117 on the land records of the town in which the lien is recorded within
118 one year from the date the lien was recorded or within sixty days of
119 any final disposition of an application made pursuant to section 49-
120 35a, including any appeal taken with respect thereto in accordance
121 with section 49-35c, whichever is later. Each such lien, after the
122 expiration of the one-year period or sixty-day period, as the case may
123 be, without action commenced and notice thereof filed as aforesaid,
124 shall be invalid and discharged as a matter of law. An action to
125 foreclose a mechanic's lien shall be privileged in respect to assignment
126 for trial. With respect to any such lien which was validated in
127 accordance with the provisions of section 49-37a, the one-year period
128 or sixty-day period, as the case may be, shall toll from the date of the
129 validation.

130 Sec. 6. Section 49-72 of the general statutes is repealed and the
131 following is substituted in lieu thereof (*Effective October 1, 2016*):

132 Any private water company which is owed rates or charges for
133 connection with or for the use of its water system and such rates or
134 charges are not paid when due has a lien on the real estate served and
135 a charge against the owners of such real estate from the date the rates
136 or charges were due, provided the owner of such real estate when the
137 lien is recorded is the party that owes such rates or charges. The lien
138 and charge shall bear interest at the rate of eighteen per cent per
139 annum so long as the rates or charges remain unpaid. The lien may be
140 recorded and released in the manner provided for recording and
141 releasing tax liens. The lien shall not continue for more than one year
142 after the date the rates or charges were due, unless the secretary of the

143 company, before the expiration of that year, has filed a certificate of
144 continuation of the lien in the manner provided by law for the
145 continuance of tax liens. When continued the lien shall be valid for
146 fourteen years thereafter. The lien shall take precedence over all other
147 [subsequently] recorded liens or encumbrances except taxes and liens
148 for assessments filed by an association of a common interest
149 community under section 47-258 and may be foreclosed against the lot
150 or building served in the same manner as a lien for taxes.

151 Sec. 7. Subsection (c) of section 52-380a of the general statutes is
152 repealed and the following is substituted in lieu thereof (*Effective*
153 *October 1, 2016*):

154 (c) A judgment lien on real property may be foreclosed or redeemed
155 in the same manner as mortgages on the same property. In the case of
156 a consumer judgment, the complaint shall indicate whether, pursuant
157 to an installment payment order under subsection (b) of section 52-
158 356d, the court has entered a stay of execution and, if such a stay was
159 entered, shall allege any default on an installment payment order
160 which is a precondition to foreclosure. No action to foreclose a
161 judgment lien filed pursuant to this section may be commenced unless
162 an execution may issue pursuant to section 52-356a. The judgment lien
163 shall expire twenty years after the judgment was rendered, except any
164 judgment lien recorded with respect to a small claims action shall
165 expire ten years after the judgment was rendered, unless the party
166 claiming the lien commences an action to foreclose it within that
167 period of time and records a notice of lis pendens in evidence thereof
168 on the land records of the town in which the real property is located.

169 Sec. 8. (NEW) (*Effective October 1, 2016*) Any conveyance of an
170 interest in land to a trust rather than the trustee or trustees of the trust
171 shall constitute a valid and enforceable transfer of that interest. Any
172 conveyance by the trust, which conveyance is signed by a duly
173 authorized trustee of such trust, shall be treated as if the conveyance
174 was made by the trustee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	45a-428
Sec. 2	<i>October 1, 2016</i>	45a-583(d)
Sec. 3	<i>October 1, 2016</i>	47-12a(b)
Sec. 4	<i>October 1, 2016</i>	49-9a
Sec. 5	<i>October 1, 2016</i>	49-39
Sec. 6	<i>October 1, 2016</i>	49-72
Sec. 7	<i>October 1, 2016</i>	52-380a(c)
Sec. 8	<i>October 1, 2016</i>	New section

Statement of Purpose:

To make various revisions to statutes affecting title to real property.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]